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REMARKS

Remarks begin on page 8 of this paper.

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- REMARKS -Claim Amendments

Claim 16 has been amended to more clearly distinguish the invention with respect to the prior art. Namely, the following limitation has been added: "wherein said mechanical axis is determined and displayed on said output device without reference to an image of said femur acquired pre-operatively or intra-operatively using a medical imaging device".

Support for the amendment can be found in the background of the invention, where the applicant makes a distinction between CT-based and CT-less computer assisted surgery systems. Support can also be found in figures 2-5, which illustrate the displaying of the information by the claimed system without reference to an image acquired by a medical imaging device, such as a CT, an X-ray, a fluoroscopy, a tomography, or a magnetic resonance image. Further support can be found at paragraphs [025] and [026], where the system described is further associated with surface model reconstruction, which differs from techniques involving medical imaging devices as described above. In surface model reconstruction, small surfaces are digitized and used to create clouds of points used as reference points by the system, thereby allowing the surgeon to navigate with tools and have a reference in the body. Therefore, no new subject matter has been added in the claims.

Claim Rejections – 35 USC § 112

Claims 1-4 and 7-15 are rejected under §112 for having insufficient antecedent basis for the limitation "the center of rotation" found in the last two lines of claim 1. Claim 1 has been amended to overcome this rejection and provide proper antecedent basis.

Claim Rejections – 35 USC § 102

Claims 16-23 are rejected under section 102(e) as being anticipated by Carson et al. (US 2003/0069591). The rejection under paragraph (e) of section 102 is inappropriate since the cited reference was published before the filing date of the

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present application. Therefore, the Applicant will assume that the Examiner meant to reject the claims under section 102(a) and will respond accordingly.

The Applicant believes claim 16 as amended overcomes the present rejection and respectfully asks for reconsideration for the following reasons.

Carson et al. describe a system and process for tracking anatomy, instrumentation, trial implants, implants, and references, and rendering images and data related to them in connection with surgical operations. Carson et al. specifically teach the acquisition of medical imaging intra-operatively in order to use the images as reference points for the anatomy tracking system. This is evidenced in figures 18 to 22, where the standard fluoroscopy calibration device is visible on the images, and in figures 23 to 26, where the images acquired via the medical imaging device are used to display the designated landmarks on the anatomy.

Claim 16 differs from the cited reference in that the system is configured to work without the images acquired via medical imaging devices such as fluoroscopy. The computing module and the output device recited in claim 16 therefore differ from what is taught or suggested in Carson et al. and the claim cannot be anticipated by the reference.

Furthermore, Carson et al. fails to suggest a method other than using a medical imaging device to obtain images of appropriate body parts. This is evidenced by paragraph [0008], which states that obtaining appropriate images (such as fluoroscopy images) is the first step in the described system and process. In fact, Carson teaches against the use of imageless systems (see paragraph [0019]). He associates the imageless system with a kinematics technique and not an acquisition module that acquires static positions of the bone. Therefore, claim 16 is not taught or suggested by the cited reference.

In conclusion, the Examiner is asked to withdraw the rejection of anticipation for claims 16-23 in view of the arguments presented above and the present amendment to claim 16. In addition, the Applicant would appreciate that the Examiner confirm that claims 1-15 are not rejected on the basis of any prior art and

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are now patentable in view of the corrective amendment to claim 1. Early and favourable notice is earnestly solicited.

Respectfully submitted,

Alain Richard et al.

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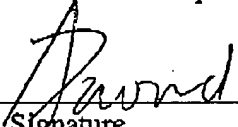
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